

**REMARKS**

The above amendment with the following remarks is submitted to be fully responsive to the Official Action of June 10, 2004. Reconsideration of this application in light of the amendment and the allowance of this application are respectfully requested.

Claims 1-37 were pending in the present application prior to the above amendment. In response to the Office Action, claims 1, 7, 21, 26 have been amended and claims 27-37 are withdrawn. Therefore, claims 1-37 are still pending in the present application and are believed to be in proper condition for allowance.

Referring now to the Office Action, the Examiner objected to the drawings because Figure 6 is inconsistent with the progression of Figures 3-5. The Examiner noted that the internal wall (3) is on the top, and the external wall (4) is on the bottom of each figure, except for Figure 6. In response thereto, attached is a proposed drawing correction in which the numerals of Figures 3 and 4 are corrected. In this regard, it is respectfully noted that the drawing of Figure 6 is in fact, correct, and that the drawings of Figures 3 and 4 are incorrect. This is evidenced by Figure 2 and relevant sections of the specification that describe that the trocar (5) is formed for cutting or piercing tissue outwardly from within the body cavity. With respect to Figure 5, numeral 3 has been added to more clearly show the progression of the surgical device. Therefore, the acceptance of the proposed drawing correction is respectfully requested.

In addition, the disclosure was objected to by the Examiner based on an inconsistency in the last paragraph of page 10 in view of the drawings Figures 3-5. In particular, the Examiner notes that the point of the trocar is shown directed towards the patient's body whereas the specification describes the trocar as being directed outward from the interior of the body. However, this inconsistency is believed to be addressed by the corrections to the drawings Figures 3 and 4 in the proposed drawing correction. Therefore, the withdrawal of this objection is respectfully requested.

Referring now to the substantive Office Action, the Applicants acknowledge with appreciation, the Examiner's indication of allowable subject matter in claim 21 if rewritten in independent form to include all the limitations of the base claim, and any intervening claims. In response thereto, claim 21 has been amended above to incorporate all the limitations of claim 1, as well as the intervening claim 19. Therefore, the allowance of this claim is respectfully requested.

Referring again to the Office Action, claims 1, 3-7, 9-13, 15-20, and 22-25 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,451,041 to Moenning et al. Moenning discloses a surgical device including a cannula, a trocar carried in the inner surface of the cannula, and a fixing means to lock the cannula in position on the patient's body during surgery. However, it is noted that the apparatus disclosed in Moenning et al. does not include a trocar that is removably mounted on the cannula as recited in the presently pending claim 1. In this regard, the apparatus disclosed in Moenning merely includes a trocar that is inserted and passes through the cannula for piercing the tissue, whereas the present claim requires that the trocar be removably mounted to the cannula.

Moreover, in contrast to the Examiner's assertion, the apparatus as described in Moenning cannot be used to pierce tissue outwardly from within the body cavity as also recited in the pending claim 1. In particular, in order to install the apparatus that is disclosed in Moenning et al., very significant amount of room must be required to position the elongated sleeve, the cannula (14) and the trocar (16) that are shown in the various figures of the reference. The cannula and the trocar disclosed in Moenning are very large, thereby precluding its use from within the body cavity to pierce the tissue outwardly as recited in the presently pending claim 1. The large size of the various components is necessitated by the complex operation of securing the sleeve (20) which requires compression of a sealing member (24) so as to cause it to flare outwardly to contact the interior surface of the wall of the patient.

In contrast, the present invention is implemented to be moved into position underneath the tissue of the patient so that the tissue can be pierced outwardly from

within the body cavity as recited in claim 1. Therefore, the Applicants respectfully contend that Moenning fails to disclose each and every aspect of the present invention, and respectfully request the withdrawal of this rejection, the remaining claims 3-7, 9-13, 15-20, and 22-25 being ultimately dependent on independent claim 1 discussed above.

However, to more clearly define the present invention, and to expedite the prosecution of the present application, claim 1 has been amended above to specifically recite that the cannula includes a distal ring that engages the internal wall, and is sized to be received in the body cavity. Clearly, the cited reference fails to disclose, teach, or otherwise suggest the present invention as now claimed. In this regard, it is noted that in Moenning, it is the sleeve (20) that is provided with a sealing member (24), and that the sealing member is not provided on the cannula. Moreover, the sleeve it self does not have a distal ring until compression of the sealing member to cause it to flare outwardly. Correspondingly, the allowance of these claims is respectfully requested.

Referring again to the Office Action, claim 26 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,658,306 to Kieturakis et al. that discloses a method for making additional incisions in a laparoscopic surgery. In response thereto, claim 26 has been amended to specifically recite that the cannula includes a distal ring, and has been further amended to specifically recite that the trocar is inserted into the body cavity with the cannula. Moreover, claim 26 has been amended to recite the positioning of the cannula and the trocar to be substantially perpendicular in orientation to the tissue. Clearly, the cited Kieturakis et al. reference fails to disclose, teach, or otherwise suggest the method as now claimed. Therefore, the withdrawal of this rejection, and the allowance of this claim are respectfully requested.

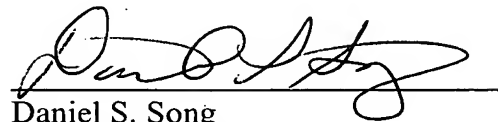
Referring again to the Office Action, claims 2, 8, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moenning et al. discussed in detail above. With respect to claim 2, the Examiner further cites U.S. Patent No. 4,601,710 to Moll as disclosing a trocar that is removably mounted on a cannula with threads. However,

as acknowledged by the Examiner, Moll teaches that such threads are for the purpose of removing the trocar to detach a blunt trocar for sharpening purposes. However, no suggestions or teachings are provided in Moenning or Moll to suggest the combination of these references as suggested by the Examiner in which the trocar is removably attached to the cannula for the purpose of installing the surgical device. In this regard, the Applicants respectfully contend that the Examiner appears to be engaging in hindsight reconstruction to combine these two references in the manner now suggested by the Examiner to derive the present invention based on the Applicants' own disclosure.

With respect to claim 8, it is noted that the distal ring disclosed in Moenning cannot be made integral as suggested by the Examiner, because the distal ring is actually formed by compressing the sealing member. Claim 14 is believed to be in proper condition for allowance, at least for the reasons noted above with respect to claim 1.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Respectfully submitted,



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**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figs. 3 and 4. This sheet, which includes Figs. 3-6, replaces the original sheet including Figs 3-6. In Figure 3, reference numeral 3 has been changed to 4 and reference numeral 4 has been changed to 3. In Figure 4, reference numeral 3 has been changed to 4. In Figure 5, reference numeral 3 has been added.

Attachments: Replacement Sheet  
Annotated Sheet Showing Changes



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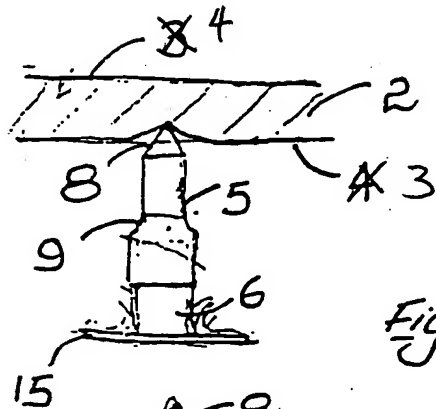


Fig. 3

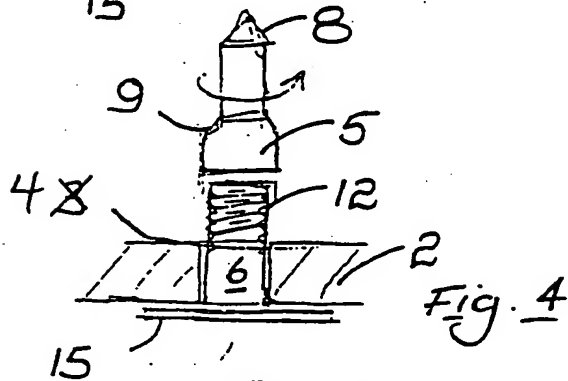


Fig. 4



Fig. 5

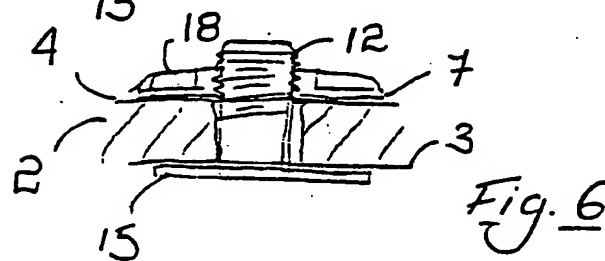


Fig. 6